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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,585	10/02/2003	Leonard J. Guarisco SR.	8268-1	2478

21184 7590 05/13/2005

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EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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10/678,585

EXAMINER

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Commissioner for Patents

Please see attached.

Stephen Gordon
Primary Examiner
Art Unit: 3612

Art Unit: 3612

Attachment to PTO form 90 of paper no. 05-05

1. The reply filed on 2-22-05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the reply filed 2-22-05 contains no claims directed to the elected invention and is thereby non-responsive. Note, such election being made constructively by original presentation – see next paragraph. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

2. Newly submitted claims 1-18 are directed to an invention that is independent or distinct from the invention originally claimed. The invention original claims 1+ defining a combination transporter with floor and newly presented claims 1+ defining a subcombination transporter with specific guide/pad detail are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least support pads on the guide members per se are not required. The subcombination has separate utility such as use as a top lowered support device – i.e. lowered over the

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handled cargo wherein the cargo passes through the open floor area prior to securement. Additionally, because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5-9-05
Stephen Gordon
Primary Examiner
Art Unit 3612

stg